THE HONOURABLE SHRI JUSTICE K.C. BHANU

WRIT PETITION NO.17484 OF 2001

Between:

Seepelly Sarsaih …Petitioner

And

Singareni Collieries Company Limited …Respondent

and another

ORAL ORDER:

For declaring the impugned Proceedings No.P/RKP/33/01/1857 dated 14.5.2001, as illegal and for a direction not to recover further penal rent and to return the penal rent already recovered from the salary of the petitioner, the present writ petition is filed.

The learned counsel for the petitioner contended that the order of this Court in WP Nos.7434 of 1999 and batch dated 20.1.2000 has become final, where under it is specifically directed that the petitioners in the batch of those writ petitions, who are found to be entitled for the direction of settlement, are entitled for the return of penal rent collected from them. Therefore, the minimum penal rent ordered to be recovered for three years at the rate of 14,400/- is illegal and arbitrary.

On the other hand the learned counsel for the respondents contended that in pursuance of the report submitted by the Committee, certain steps have been taken for regularization and thereafter as per the recommendations of the Committee the penal rent to be recovered is less than Rs.14,400/- and in pursuance of the report of the Committee the impugned Proceedings have been passed and, therefore, it does not suffer from any infirmities.

The impugned Proceedings dated 14.5.2001 shows that a Committee was constituted in pursuance of the directions of this Court in WP No.7434 of 1997 and batch dated 20.1.2000 for the eligibility of the petitioners therein for regularization of

the quarters as per the settlement dated 31.7.1997, which Committee submitted its report on 18.7.2000. The impugned Proceedings also indicate that the Committee has found that the eligibility of the petitioners therein for regularization of the Quarter No.KD-259 is subject to fulfillment of recovery of minimum penal rent of Rs.14,400/- and House Rent Allowance paid, if any.

The learned counsel for the petitioner contended that the imposition of penal rent is contrary to the Judgment of this Court, wherein this Court held that:

> " For the aforesaid reasons, this batch of writ petitions are disposed of directing the respondent company herein not to deduct any penal rent from the salaries of the petitioners and other employees until a decision is taken by the Committee of the Officers constituted for the purpose of making an enquiry in terms of the aforementioned directions. However, it shall be open to the company to deduct the penal rent from the salaries of such of those petitioners and employees who are not entitled for the protection of the settlement dated 31st July, 1997 and who continued to be in unauthorized occupation of the residential staff quarters with retrospective effect. Likewise, such of those petitioners and other employees who are found to be entitled for the protection of the settlement, are entitled for the return of penal rents so collected from them, and the company shall have to repay the same to the eligible petitioners and other employees. It shall be open to the respondent company to take such further steps as it may wish to do so to secure the eviction of the staff quarters from the possession of such unauthorized occupants who are not entitled for the protection of the settlement."

So, a perusal of the above Judgment shows that if the employees are found to be entitled for protection of the settlement, they are entitled for the return of the penal rents so collected from them and the company shall have to repay the same to the eligible employees. Basing on the said Judgment the Company issued Circular dated 8.11.2000, where under certain steps have to be taken for regularization of allotment of quarters in the names of the Workmen subject to payment of Rs.14,400/- towards the penal rent to be recovered for a period of three years. Though the petitioner was in illegal occupation, still he is covered by the settlement and in pursuance of the Circular dated 8.8.1998 the penal rent for a period of three years has to be recovered at the rate of Rs.400/- per month.

It is clearly stated in the impugned Proceedings that the Company has already recovered an amount of Rs.8,900/- towards the penal rent and the balance amount of Rs.12,550/- will be recovered from his salary at the rate of Rs.600/- per month,

commencing from the month of May,2001. Since the Committee was constituted in pursuance of the directions of this Court to decide allotment of quarters to the employees, but subject to fulfillment of payment of penal rent of Rs.14,400/-, it cannot said to be in contrary to the settlement arrived. The Workman cannot claim hot and cold blow at one time, when they were in illegal occupation of the quarter and having received the House Rent Allowance from the Company. Perhaps that is the reason why they have restricted the payment of penal rent for a period of three years as per the Circular dated 8.8.1998, and as a matter of fact the Committee has given certain steps to be taken by the Management for regularization of allotment of quarters in their names. The said committee report has not been under challenge. Therefore, the impugned order does not suffer from any infirmities, so as to call for interference from this Court.

The writ petition is devoid of any merits and it is accordingly dismissed. The stay, if any granted earlier, stands vacated. No costs.

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Dt.25.08.2005. K.C. BHANU, J

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